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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,120	08/25/2003	L. Taylor Arnold	ARNOLD-5	8894

7590

08/18/2005

Eric A. LaMorte
LaMorte & Associates, P.C.
P.O. Box 434
Yardley, PA 19067-8434

EXAMINER

MILLER, BENA B

ART UNIT	PAPER NUMBER
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3725

DATE MAILED: 08/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/646,120

Applicant(s)

ARNOLD, L. TAYLOR

Examiner

Bena Miller

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,6-9,12 and 15-19 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8,9,12 and 15 is/are allowed.
- 6) ☒ Claim(s) 1,6,7,16-19 is/are rejected.
- 7) ☒ Claim(s) 2 and 3 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

Bena Miller

DETAILED ACTION

Remarks in the RCE filed 7/18/05 are duly noted.

Claim Objections

Claims 1-3, 6 and 7 are objected to because of the following informalities:

Regarding claim 1, the word "in" or "along" should be deleted and in line 7, the word "and" should be deleted. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Strauss (US Patent 2,782,559) in view of Baumgartner (US PUB 2003/0082987) or Peters et al (US Patent 6,491,566) or Welte (US Patent 5,100,153).

Strauss teaches in the figures most of the elements of the claimed invention, including a motor selectively adjusting the predetermined angle of the at least one linkage element extending from the master vehicle (col. 3, pars. 3 and 4). Baumgartner, Peters and Welte teach master and slave remote control cars. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a remote control as suggested by Baumgartner, Peters or Welte for the vehicles of Strauss for the purpose of causing slave toy to follow or evade the master vehicle. Further, it would have been obvious to one having ordinary skill in the art at the time the

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invention was made to have multiple slave model vehicles, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v Bemis Co.*, 193 USPQ 8.

Claims 1, 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kulesza (US Patent 4,508,517) in view of Baumgartner (US PUB 2003/0082987) or Peters et al (US Patent 6,491,566) or Welte (US Patent 5,100,153).

Kulesza teaches in the figures most of the elements of the claimed invention, including a motor selectively adjusting the predetermined angle of the at least one linkage element extending from the master vehicle (col. 2, pars. 2-4). Baumgartner, Peters and Welte teach master and slave remote control cars. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a remote control as suggested by Baumgartner, Peters or Welte for the vehicles of Kulesza for the purpose of causing slave toy to follow or evade the master vehicle. Further, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have multiple slave model vehicles, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v Bemis Co.*, 193 USPQ 8.

Claims 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rasmussen et al (US Patent 4,568,300)..

The device of Rasmussen reads on the structural limitations of the claim including a remote control signal (22) and a remote control signal receiver (col. 2, par. 1). Rasmussen suggests in col. 3, par. 2 that additional cars may be increased and the

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master and slave vehicles have distinct pathways as shown in figure 3. It would have been obvious to one having ordinary skill in the art at the time the invention was made add additional slave model vehicles to the master model vehicle of Rasmussen for the purpose of creating excitement when playing the system.

However, Rasmussen fails to teach the master vehicle containing a servomotor. At the time the invention was made, it would have been an obvious matter of design choice to a persons of ordinary skill in the art to use a servomotor for the master vehicle of Rasmussen because Applicant has not disclosed that the servomotor provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected the vehicle of Rasmussen and applicant's invention, to perform equally well with the claimed servo motor because both would perform the same function of moving the vehicle.

Therefore, it would have been prima facie obvious to modify the vehicle of Rasmussen to obtain the invention specified in claim 19 because such modification would have been considered a mere design consideration which fails to patentably distinguish over the prior art of Rasmussen.

Claims 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rasmussen et al in view of Baumgartner (US PUB 2003/0082987) or Peters et al (US Patent 6,491,566) or Welte (US Patent 5,100,153).

In the event applicant disagrees with the above rejection, Baumgartner, Peters and Welte teaches master and slave remote control cars. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a remote

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control as suggested by Baumgartner, Peters or Welte for the vehicles of Rasmussen et al for the purpose of causing slave toy to follow or evade the master vehicle.

Allowable Subject Matter

Claims 2 and 3 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

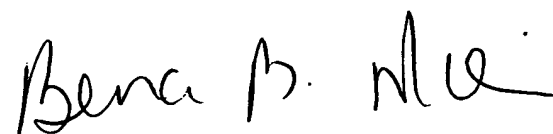
Claims 8, 9, 12 and 15 are allowed.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bena Miller whose telephone number is 571.272.4427. The examiner can normally be reached on Monday-Friday.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Bena Miller

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Primary Examiner
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bbm
August 13, 2005